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# Citizenship and Residency. Public Benefits and Services. Voting. Initiative Statute.

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SA2005 RF0099

September 13, 2005

Attorney General Lockyer  
State of California  
1300 I Street, Suite 125  
Sacramento, California 94244-2550

Dear Attorney General:

I hereby request that you prepare a title and summary of the enclosed initiative,  
"The Illegal Immigration Reform Act".

Sincerely,

Mark Wyland, proponent

**RECEIVED**

**SEP 14 2005**

**INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE**

Mailing Address  
P.O. Box 2766  
Del Mar, California 92014

SA2005RF0099

## **The Illegal Immigration Reform Act: Preserving California's Security**

### **Section I. Title.**

This measure shall be known, and may be cited, as "The Illegal Immigration Reform Act".

### **Section II. Findings and Declarations.**

This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.

### **Section III. Driver's Licenses and State Identification Cards.**

Section 1653.6 is hereby added to the California Vehicle Code, to read:

1653.6. In the issuance of drivers' licenses and identification cards under this Section, the department shall issue drivers' licenses and identification cards that are in compliance with Section 202 of Title 11 of the federal Real ID Act of 2005 (Public Law 109-13).

Section 12801.1 is hereby added to the California Vehicle Code, to read:

12801.1. (a) The department shall issue driver's licenses that permit driving and are acceptable by a federal agency for any official purpose, as certified by the Secretary of Homeland Security, to those applicants who are in compliance with the requirements of Section 202 of Title II of the federal Real ID Act of 2005 (Public Law 109-13).

(b) The department, in compliance with the federal Real ID Act of 2005, shall not issue drivers' licenses or identification cards that are not acceptable by a federal agency for federal identification or for any other official purpose pursuant to paragraph (11) of subsection (d) of Section 202 of Title II of the federal act. Any applicant who does not meet the requirements of subparagraph (B) of paragraph (2) of subsection (c) of Section 202 of the federal act shall not be issued a state driver's license or identification card.

### **Section IV. Penalties for Manufacture, Distribution, or Sale of False Citizenship or Resident Alien Documents.**

Section 113b is hereby added to the California Penal Code, to read:

113b. Any person who manufactures, distributes, or sells false documents to conceal the true citizenship or resident alien status of another person is guilty of a felony, and shall be

punished by imprisonment in the state prison for five years or by a fine of one hundred fifty thousand dollars (\$150,000).

## **Section V. Penalties for Use of False Citizenship or Resident Alien Documents.**

Section 114b is hereby added to the California Penal Code, to read:

114b. Any person who uses false documents to conceal his or her true citizenship or resident alien status is guilty of a felony, and shall be punished by imprisonment in the state prison for five years or by a fine of fifty thousand dollars (\$50,000).

## **Section VI. Law Enforcement Cooperation with USCIS.**

Section 834d is hereby added to the California Penal Code, to read:

834d. (a) Every law enforcement agency in California shall fully cooperate with the United States Bureau of U.S. Citizenship and Immigration Services (USCIS) regarding any person who is arrested if he or she is suspected of being present in the United States in violation of federal immigration laws.

(b) Any legislative, administrative, or other action by a city, county, or other legally authorized local governmental entity with jurisdictional boundaries, or by a law enforcement agency, to prevent or limit the cooperation required by subdivision (a) is expressly prohibited.

## **Section VII. Voting Rights and Privileges.**

If the Commission on State Mandates determines that this Section contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Section 2000 of the California Elections Code is hereby amended to read:

2000. (a) Every person who qualifies under Section 2 of Article II of the California Constitution and who complies with this code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held.

(b) ~~Any person~~ *A United States citizen* who will be at least 18 years of age *and resident in this State* at the time of the next election is eligible to register and vote at that election.

(c) *To the extent consistent with applicable federal law, every voter shall present proof of his or her citizenship when exercising his or her right to vote in this State.*

Section 2102 of the California Elections Code is hereby amended to read:

2102. (a) A person ~~may~~ *shall* not be registered as a voter except by affidavit of registration *and proof of citizenship*. The affidavit shall be mailed or delivered to the

county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit *and proof of citizenship* by the county elections official if received on or before the 15th day prior to an election to be held in the registrant's precinct. A properly executed registration shall also be deemed effective upon receipt of the affidavit *and proof of citizenship* by the county elections official if any of the following apply:

(1) The affidavit is postmarked on or before the 15th day prior to the election and received by mail by the county elections official.

(2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) or (2) on or before the 15th day prior to the election.

(b) *Proof of citizenship required by subdivision (a) may be established by any of the following:*

(1) *A California driver license or nonoperating identification license issued after October 1, 1996, by the Department of Motor Vehicles, or a driver license issued by the equivalent government agency of another state within the United States that reflects that it was issued upon proof of United States citizenship.*

(2) *The applicant's birth certificate or a legible photocopy thereof.*

(3) *The applicant's United States passport or a legible copy of pertinent pages thereof identifying the applicant and the applicant's passport number.*

(4) *The applicant's United States naturalization documents. An applicant may provide the number of his or her certificate of naturalization in lieu of naturalization documents, but he or she shall not be deemed registered until the number of the certificate of naturalization is verified with the United State Citizenship and Immigration Services.*

(5) *Any document or method of proof established by the Immigration Reform and Control Act of 1986 (Public Law 99-603).*

(6) *The applicant's Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.*

(c) *A person who is registered as of January 1, 2006, is deemed to have provided satisfactory evidence of citizenship and is not required to submit proof of citizenship in the form prescribed by subdivision (b) unless he or she changes voter registration from one county to another.*

(d) *For purposes of this section, proof of voter registration from another state or county is not satisfactory evidence of citizenship.*

(e) *A voter who, following a change of address, executes a new affidavit of registration or a notice or a letter of the change of address as permitted in Section 2119 shall not be required to submit evidence of citizenship unless the voter reregisters in a county different from the county in which the voter was previously registered.*

(f) *The county elections official shall maintain for at least two years a record of the information submitted by an applicant as proof of citizenship.*

(g) *For purposes of verifying signatures on a recall, initiative, or referendum petition or signatures on a nomination paper or any other election petition or election paper, a*

properly executed affidavit of registration shall be deemed effective for verification purposes if both ~~(a) the~~ *of the following are established:*

*(1) The affidavit is signed on the same date or a date prior to the signing of the petition or paper, and* ~~(b) the~~.

*(2) The affidavit is received by the county elections official on or before the date on which the petition or paper is filed.*

~~(e)~~

*(h) Notwithstanding any other provision of law to the contrary, the affidavit of registration required under this chapter may shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.*

Section 3011 of the California Elections Code is hereby amended to read:

3011. The identification envelope shall contain the following:

(a) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he or she is voting and is the person whose name appears on the envelope.

(b) The signature of the voter.

(c) The residence address of the voter as shown on the affidavit of registration.

(d) The date of signing.

(e) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(f) A warning plainly stamped or printed on it that voting twice constitutes a crime.

(g) A warning plainly stamped or printed on it that the voter must sign the envelope in his or her own handwriting in order for the ballot to be counted.

(h) A statement that the voter has neither applied, nor intends to apply, for an absent voter's ballot from any other jurisdiction for the same election.

(i) The name of the person authorized by the voter to return the absentee ballot pursuant to Section 3017.

(j) The relationship to the voter of the person authorized to return the absentee ballot.

(k) The signature of the person authorized to return the absentee ballot.

*(l) A space for the voter to provide proof of his or her identity in the form of a California driver license number, a California ID number, or the last four digits of the voter's social security number.*

Section 14216 of the California Elections Code is hereby amended to read:

14216. (a) Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address. The voter shall then write his or her name and residence address or, if the voter is unable to write, shall have the name and residence address written by another person on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article.

*(b) The voter shall then present proof of his or her identity to a member of the precinct board before receiving a ballot. Proof of identity may be established by either of the following:*

- (1) One form of identification that bears the name, address, and photograph of the elector.*
- (2) Two forms of identification that bear the name and address of the elector.*

## **Section VIII. Public Benefits.**

For the purposes of this section, "State" includes, but is not necessarily limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or other political subdivision or governmental instrumentality of or within the State.

Section 10001.75 is hereby added to the California Welfare and Institutions Code, to read:

10001.75. (a) In order to carry out the intention of the People of California that only citizens of the United States and aliens lawfully admitted to the United States may receive the benefits of public social services and to ensure that all persons employed in the providing of those services shall diligently protect public funds from misuse, the provisions of this section are adopted.

(b) A person shall not receive any public social services to which he or she may be otherwise entitled until the legal status of that person has been verified as one of the following:

- (1) A citizen of the United States.
- (2) An alien lawfully admitted as a permanent resident.
- (3) An alien lawfully admitted for a temporary period of time.

(c) If any public entity in this state to whom a person has applied for public social services determines or reasonably suspects, based upon the information provided to it, that the person is an alien in the United States in violation of federal law, the entity shall not provide the person with benefits or services.

Section 131 is hereby added to the California Health and Safety Code, to read:

131. (a) In order to carry out the intention of the People of California that, excepting emergency medical care as required by federal law, only citizens of the United States and aliens lawfully admitted to the United States may receive the benefits of publicly-funded health care, and to ensure that all persons employed in the providing of those services shall diligently protect public funds from misuse, the provisions of this section are adopted.

(b) A person shall not receive any health care services from a publicly-funded health care facility, to which he or she is otherwise entitled until the legal status of that person has been verified as one of the following:

- (1) A citizen of the United States.
- (2) An alien lawfully admitted as a permanent resident.
- (3) An alien lawfully admitted for a temporary period of time.

(c) If any publicly-funded health care facility in this state from whom a person seeks health care services, other than emergency medical care as required by federal law, determines or reasonably suspects, based upon the information provided to it, that the person is an alien in the United States in violation of federal law, the facility shall not provide the person with services.

(d) For purposes of this section "publicly-funded health care facility" shall be defined as specified in Sections 1200 and 1250 of this code as of January 1, 2002.

Section 66010.9 is hereby added to the California Education Code, to read:

66010.9. (a) No public institution of postsecondary education shall admit, enroll, or permit the attendance of any person who is not a citizen of the United States, an alien lawfully admitted as a permanent resident in the United States, or a person who is otherwise authorized under federal law to be present in the United States.

Section 68130.5 is stricken from the California Education Code.

#### **Section IX. Liberal Construction.**

The provisions of this Act shall be liberally construed to effectuate its purpose of preventing the granting of rights and benefits reserved for U.S. citizens and legal residents, except those specifically required, pursuant to federal law, to be provided. These rights and benefits include, but are not necessarily limited to, a state driver's license or state identification card, subsidized in-state tuition or fees for postsecondary education, voting privileges, or any health, social, or other state or local public benefit as defined pursuant to subsection (c) of Title 8 of Section 1621 of the United States Code, except to the extent that that privilege, service, or benefit encompassed by this Act is required, pursuant to federal law, to be provided.

#### **Section X. Severability.**

If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

#### **Section XI. Standing to Bring Suit.**

Any citizen residing in the state of California may sue for injunctive, declaratory, or any other appropriate relief to enjoin violations or to compel compliance with the provisions of this section. In any legal action to enforce Section VIII, the burden shall be on the State to demonstrate that the benefits or services are required to be provided pursuant to federal law. The court shall award to a prevailing plaintiff or defendant, other than the State, the costs of litigation, including reasonable attorney's fees. Courts shall give preference to actions brought under this Act over other civil actions or proceedings pending in the court.



## **Section XII. Liability of Government Actors.**

Any elected official or government official who willfully violates the provisions of this title may be held personally liable for the costs of litigation including reasonable attorney's fees and actual damages.

## **Section XIII. 2/3 Vote Requirement to Amend.**

The provisions of this Act may be amended by a statute that is passed by a vote of two-thirds of the membership of each house of the Legislature and signed by the Governor, or by a statute that becomes effective only when approved by a majority of voters in a statewide election. All amendments to this Act shall be to further the Act and shall be consistent with its purposes.